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OFFICE OF PETITIONS

Decision on Petition

In re Application of
Oshlack et al.
Application No. 10/700,906
Filed: November 4, 2003
Attorney Docket No. 200.1133CONS

This is a decision on the petition filed October 6, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 50 of the specification was part of the originally filed application.

The application was filed on November 4, 2003. On September 28, 2004, a Notice was mailed stating that page 50 of the specification did not appear to be included as part of the application filed.

The present petition alleges that page 50 was deposited on November 4, 2003. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 86 pages of specification on November 4, 2003.¹

The USPTO file for this application includes only 85 pages of specification and does not include page 50 of the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but was later misplaced. Therefore, the petition is granted.

The petition fee of \$130 will be credited to petitioner's deposit account.

The Notice mailed September 28, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application with a filing date of November 4, 2003, using the application papers filed on November 4, 2003, and the copy of page 50 of the specification filed on October 6, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.